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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,627

01/31/2005

Dan Richards

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EXAMINER

GOLIGHTLY, ERIC WAYNE

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

05/13/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,627	<b>Applicant(s)</b> RICHARDS ET AL.	
	<b>Examiner</b> Eric Golightly	<b>Art Unit</b> 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 43-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 43, 44 and 70-72 is/are rejected.
- 7) ☒ Claim(s) 45-69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :22 April 2005, 26 April 2006 and 11 August 2006.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicants' election without traverse of claims 1-27 in the reply filed on March 11, 2008 is acknowledged. Claims 28-42 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Moreover, applicants' cancellation of claims 1-42, and addition of new claims 43-72 based on the elected claims 1-27 (presently cancelled) in the reply is acknowledged.

### ***Claim Objections***

2. Claims 45-69 are objected to because of the following:

The dependent claims, claims 45-69, improperly refer to claim numbers of claims that have been cancelled, i.e., claims 1-42, and therefore are not treated on the merits.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 43, 44 and 70-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention. The term "rigid" in claims 43, 44 and

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70-72 is a relative term which renders the claims indefinite. The term "rigid" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 43, 44 and 70 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by US 4,828,651 to Lumbroso, et al. (hereinafter "Lumbroso").

Regarding claims 43,44 and 70 , Lumbroso teaches a device for cleaning a coking reactor (abstract) and discloses: a mass (Fig. 1, ref. 12 and col. 3, line 58), or elongated rigid conduit, that is fully capable of being inserted into a vessel and extending therein; a flexible tube (Fig. 1, ref. 10 and col. 3, lines 50 and 51), or elongated flexible conduit, that is fully capable of being inserted through the rigid conduit into a vessel for conducting pressurized liquid and extending beyond an

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innermost end of the rigid conduit as claimed; and superimposed layers with watertight sheathings (col. 2, lines 64-66), that read on the sealing device between the conduits.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicants are advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 71 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lumbroso (US 4,799,554) in view of US 4,799,554 to Clapp, et al. (hereinafter "Clapp").

Initially it is noted that the claims only require that the rigid conduit is insertable through the valve assembly. The valve assembly itself is not claimed as part of the claimed apparatus.

Lumbroso teaches a device for cleaning a coking reactor (abstract) and discloses: a mass (Fig. 1, ref. 12 and col. 3, line 58), or elongated rigid conduit, that is fully capable of being inserted into a vessel and extending therein; a flexible tube (Fig. 1, ref. 10 and col. 3, lines 50 and 51), or elongated flexible conduit, that is fully capable of being inserted through the rigid conduit into a vessel for conducting pressurized liquid and extending beyond an innermost end of the rigid conduit as claimed; and superimposed layers with watertight sheathings (col. 2, lines 64-66), that read on the sealing device between the conduits.

Lumbroso does not explicitly teach that the rigid conduit is insertable through a valve assembly. Clapp teaches an apparatus for pressurized cleaning (abstract) and discloses an elongated rigid valve assembly (Fig. 1, ref. 31 and col. 4, lines 7 and 8) wherein tubing (Fig. 1, ref. 23 and col. 4, line 1), or rigid conduit, is inserted. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a valve-insertable rigid conduit as per the Clapp teaching in the apparatus as per the Lumbroso teaching in order to control access to and fluid communication with

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the conduits. It is noted that the Lumbroso/Clapp rigid conduit is insertable through a valve assembly extending through a wall of a vessel.

Lumbroso/Clapp discloses a sealing device but do not explicitly teach a sealing device located between the rigid conduit and the valve assembly. However, the skilled artisan would have found it obvious to include a sealing device between the rigid conduit and the valve assembly in order to inhibit the escape of pressurized fluid from the valve assembly. See MPEP 2144.04(IV)(A) and (B).

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Golightly whose telephone number is (571) 270-3715. The examiner can normally be reached on Monday to Thursday, 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Kornakov can be reached on (571) 272-1303. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EWG  
/Michael Kornakov/  
Supervisory Patent Examiner,  
Art Unit 1792